

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In the Matter of

Implementation of Section 302 of  
the Telecommunications Act of 1996

Open Video Systems

CS Docket No. 96-46

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**REPLY COMMENTS OF THE CITY OF CHARLOTTE AND COUNTY OF MECKLENBURG**

The City of Charlotte and Mecklenburg County, North Carolina, respectfully submit these reply comments to the Federal Communications Commission ("Commission" or "FCC") in the above-captioned proceeding.

**I. INTRODUCTION**

On March 11, 1996, the Commission released a Notice of Proposed Rulemaking (FCC 96-99) ("Notice"), requesting comment on how it should implement the regulatory framework for open video systems ("OVS"). In response, the National League of Cities, the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the U.S. Conference of Mayors, Montgomery County, and several cities (hereinafter "NLC"), filed joint comments containing specific proposals for implementing that framework.

In their comments, NLC identified four key principles that must guide the Commission in formulating its rules. First, the Commission's rules regarding the PEG and other Title VI requirements mandated by Congress for OVS must ensure that OVS operators will meet local community needs and interests. Second, the Commission must adopt nondiscrimination provisions that ensure that all programmers will have truly open and affordable access to OVS and that prevent OVS from becoming a cable system in disguise. Third, the 1996 Telecommunications Act does not permit cable operators to become OVS operators. Fourth, the Commission's rules must acknowledge the property interests that local governments hold in the local public rights-of-way.

The City of Charlotte and Mecklenburg County strongly support NLC's comments and urges the Commission to follow these four principles in formulating OVS rules. The City of Charlotte and Mecklenburg County discuss below their experience in creating and implementing PEG obligations that meet critical local needs.

**II. DISCUSSION**

The Commission's statutory mandate in adopting PEG requirements for OVS is clear. As NLC notes, the Telecommunications Act of 1996 requires the Commission to establish PEG obligations for OVS that are consistent with local needs and interests, and to impose on an OVS operator obligations equivalent to those obligations imposed on cable operators. To fulfill these

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mandates, the Commission should, as proposed by NLC, require OVS operators "to match or negotiate," that is, to match each incumbent cable operators's PEG obligations, or to negotiate agreements acceptable to the affected communities.

The record in this proceeding demonstrates that local governments - as franchising authorities and PEG programmers - play a critical role in ensuring that local communications needs and interests are met.<sup>1</sup> Moreover, local governments, as the National Cable Television Association states, "are in the best position to deliver on the Act's intent to accomplish PEG access over open video systems."<sup>2</sup>

In the City of Charlotte and Mecklenburg County, PEG access provides a vital link between citizens and their community. On a weekly basis, more than fifty public access producers, with the aid of several hundred volunteers, share their uniquely personal ideas and visions by creating shows for the public access channel.

The Charlotte-Mecklenburg Schools reach students in kindergarten through twelfth grade with specially targeted programming, interactive instruction, and call-in shows that provide help with mathematics and English homework assignments. Teachers also receive in-service training on the educational access channel. Central Piedmont Community College has utilized an additional educational access channel for many years to bring college level instruction into local homes and offices. During the current academic quarter, 420 students are enrolled in telecourses and interactive instruction. The University of North Carolina at Charlotte, which shares this channel with Central Piedmont Community College and provides bulletin board information to its students and the community, will receive a separate channel for its own needs in the next few months.

Government access provides gavel-to-gavel coverage of City Council and County Commission meetings, interviews with elected officials and government staff, informative programs of local interest, and coverage of space shuttle missions by NASA. A separate access channel provides training programs and information for public safety employees on all three shifts in scores of locations around the city and county.

By adopting NLC's proposal, the Commission will ensure that PEG access continues to serve local needs and interests in the City of Charlotte and Mecklenburg County, and will satisfy the Commission's statutory mandate to impose equivalent obligations on OVS and cable operators.

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<sup>1</sup>See, e.g., Comments of the Below-Named Political Subdivisions of the State of Minnesota at 7 (franchising authorities have "considerable experience in successfully negotiating, creating and implementing...PEG obligations"); Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 34 ("The local franchising authority is the governmental entity best positioned to appreciate community needs and most experienced in the implementation of PEG access rules"); and Joint Comments of Cablevision Systems Corporation and the California Cable Television Association at 21 ("Congress certainly understood that PEG access requirements are now imposed by localities to meet critical localism goals").

<sup>2</sup>Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 33. See also, Comments of MFS Communications Company, Inc. at 27 ("The manner in which OVS operators and/or their customer programmers comply with the PEG obligations should generally be worked out between the programmer and the local government entity that oversees the implementation of these rules for cable operators").

### **III. CONCLUSION**

The City of Charlotte and Mecklenburg County respectfully request the Commission to adopt a framework for OVS consistent with the proposals and principles recommended by NLC et al. in their comments.

Respectfully submitted,

CITY OF CHARLOTTE AND MECKLENBURG COUNTY

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